

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

DEC 13 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of:)	MM Docket No. 88-577
)	
LIBERTY PRODUCTIONS,)	File No. BPH-870831MI
A LIMITED PARTNERSHIP)	
)	
For Construction Permit)	
for an FM Broadcast Station)	
)	
Biltmore Forest,)	
North Carolina)	
)	
To: The Commission)	

REPLY TO OPPOSITION OF LIBERTY

Respectfully submitted,

WILLSYR COMMUNICATIONS,
LIMITED PARTNERSHIP

Stephen T. Yelverton, Esq.
601 Thirteenth St., N.W.,
Suite 500 North
Washington, D.C. 20005
Tel: (202) 329-4200

December 13, 1999

No. of Copies rec'd 018
List ABCDE

REPLY TO OPPOSITION OF LIBERTY

Willsyr Communications, Limited Partnership ("Willsyr"), by its counsel, pursuant to 47 CFR 1.294 (c), hereby submits this reply to opposition. On November 24, 1999, Willsyr filed a motion to enlarge the issues against Liberty Productions, a Limited Partnership ("Liberty"). The motion was in response to and based upon matters contained in an amendment Liberty filed with the Commission on November 10, 1999.

Liberty filed an opposition to Willsyr's motion on December 3, 1999. Willsyr's reply is thus timely filed pursuant to 47 CFR 1.294 (c). In reply to the opposition, Willsyr submits the following comments.

Willsyr's Motion was Timely Filed and Complies with 47 CFR 1.229

Liberty contends that Willsyr's November 24, 1999, motion was not timely filed. However, Liberty ignores Order, FCC 99I-23, rel. November 23, 1999. Therein, at para. 4, the Assistant General Counsel, acting pursuant to delegated authority, lifted the freeze on the filing of motions to enlarge the issues and announced that motions against Liberty which are based upon events that have occurred or facts that were discovered during the freeze must be filed within fifteen days of the lifting of the freeze on November 23, 1999 (which would be December 8, 1999). It was further announced that motions to enlarge the issues in response to Liberty's November 10, 1999, amendment must be filed by November 26, 1999. Thus, Willsyr's November 24th motion was timely filed.

Liberty further contends that Willsyr's motion is defective because it contains no statement in support from someone having personal knowledge of its certification. However, 47 CFR 1.229 (d) provides for motions to enlarge to be based upon matters which official notice may be taken. Willsyr's motion stated that it was based upon Liberty's November 10th amendment and the underlying certifications and representations to the Commission. These are clearly matters that official notice may be taken.

Liberty's assertions in its opposition are so factually incorrect and so legally erroneous as to raise even further substantial and material questions as to its reliability, trustworthiness, and ultimate fitness to be a Commission licensee.

Liberty Wholly Mischaracterizes the July 9th Public Notice

Liberty asserts that the July 9, 1999, Public Notice, DA 99-1346, at p. 8, simply states that bidders attributable interests shall be determined as of the short-form (FCC Form 175) filing deadline of August 20, 1999. Thus, according to Liberty, only attributable interests held on that day are to be reported. Nothing held either before or after that date need be reported.

Liberty ignores other BOLD TYPED language in the public notice which states that, in order to avoid attribution, bidders must have consummated a divestiture of an otherwise attributable media interest by the August 20th deadline. See also, n. 16.

If Liberty had acknowledged this language, the obvious question would arise as to why would the Commission require a media interest to be divested on or before August 20th in order not to be

attributable, but then allow it to be reacquired after August 20th and remain non-attributable?

The Commission did not, of course, establish such an absurd attribution policy and Liberty's continuing disingenuous arguments in support of this absurd result demonstrate that it cannot be relied upon to act in good faith as a Commission licensee.

Liberty makes the further disingenuous contention that Willsyr was required to challenge the July 9th public notice within 30 days of the release date. However, Willsyr is not challenging the July 9th public notice. Rather, it is challenging Liberty's absurd "interpretation" of that notice.

Liberty's absurdities in regard to the July 9th public notice did not first become known until it filed its September 27, 1999, amendment and then reiterated them in its November 10, 1999, amendment. Pursuant to Order, FCC 99I-23, para. 4, rel. November 23, 1999, Willsyr timely filed its motion to enlarge the issues against Liberty raising this matter.

WHEREFORE, in view of the foregoing, a basic qualifying issue must be specified against Liberty to determine its reliability and trustworthiness to be a Commission licensee.

Respectfully submitted,

WILLSYR COMMUNICATIONS, LIMITED PARTNERSHIP

By: 

Stephen T. Yelverton, Esq.
601 Thirteenth St., N.W., Suite 500 North
Washington, D.C. 20005
Tel. 202-329-4200

December 13, 1999

CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney at law, do hereby certify that on this 13th day of December, 1999, I have caused to be hand-delivered or mailed, U.S. Mail, first-class, postage prepaid, a copy of the foregoing "Reply to Opposition of Liberty" to the following:

John I. Riffer, Esq.*
Associate General Counsel
Federal Communications Commission
Washington, D.C. 20554

James Shook, Esq.*
Enforcement Bureau
Federal Communications Commission
Washington, D.C. 20554

Timothy K. Brady, Esq.
P.O. Box 71309
Newman, GA 30271-1309

Lee Peltzman, Esq.
Shainis & Peltzman
1901 L St., N.W., Suite 290
Washington, D.C. 20036-3506

Donald J. Evans, Esq.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Ave., N.W., Suite 750
Washington, D.C. 20005



Stephen T. Yelverton

* Hand Delivery